



20 DEC 2006

Buckley, Maschoff & Talwalkar, LLC
5 Elm Street
New Canaan, CT 06840

In re Application of
TANIR et al.
U.S. Application No. 10/523,222
PCT No.: PCT/GB03/03355
Int. Filing Date: 01 August 2003
Priority Date: 01 August 2002
Attorney Docket No.: S18.001
For: SPECTACLE KIT

DECISION ON PETITION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a) to Accept Application with Missing Signature" filed 14 December 2006 to accept the application without the signature of joint-inventor, Paul Davey Sinding.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/GB03/03355 which claimed a priority date of 01 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 February 2004.

On 31 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 17 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 20 January 2006, applicants filed a petition under 37 CFR 1.47(a) and the requisite petition fee for a three-month extension of time. In a decision dated 27 April 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 30 June 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 13 September 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 14 December 2006, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A. Petition under 37 CFR 1.181

Applicants state in their present petition that a renewed petition under 37 CFR 1.47(a) was received by the USPTO on 16 November 2006. A review of the application file reveals that the renewed petition under 37 CFR 1.47(a) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "Return Postcard" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; applicants' name; and docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 16 November 2006 which itemizes all the papers filed on said date. The postcard receipt bearing the applicants' name, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 16 November 2006.

B. Petition under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicants on his or her own behalf and behalf of the nonsigning joint inventor.

A review of the papers filed 16 November 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Paul Davey Sinding) could not be reached, stated the last known address of the non-signing inventor (Paul Davey Sinding), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is GRANTED.

The application will be given an international filing date of 01 August 2003 under 35 U.S.C. 363, and a date of 20 January 2006 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



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Dear Paul Davey Sinding:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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